UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Alexandria Division

2024 MAR 29 P 4: 12

Case No. 1:24CV516
(to be filled in by the Clerk's Office)

Kirk Russel Marsh

Plaintiff(s)
(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

State of Utah
Michael Edwards
Dana Emmons

Defendant(s)
(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: *(check one)* ☒ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non–Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name: Kirk Russel Marsh
Address: 10036 Glenmere Rd
Fairfax (*City*) VA (*State*) 22032 (*Zip Code*)
County: Fairfax
Telephone Number: 571-430-9473
E-Mail Address: kirkrussel@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name: State of Utah
Job or Title *(if known)*: Office of the Attorney General for the State of Utah
Address: 350 North State Street Suite 230
Salt Lake City (*City*) UT (*State*) 84114-2320 (*Zip Code*)
County: Salt Lake
Telephone Number: (801) 366-0260
E-Mail Address *(if known)*: uag@agutah.gov
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name: Michael Edwards
Job or Title *(if known)*: State Judge
Address: 800 W State Street
Farmington (*City*) UT (*State*) 84025 (*Zip Code*)
County: Davis County
Telephone Number: (801) 447-3840

E-Mail Address *(if known)* unpublished

☐ Individual capacity ☒ Official capacity

Defendant No. 3

Name Dana Emmons

Job or Title *(if known)* Court Appointed Reunification Counselor

Address 3585 N University Avenue

Provo UT 84604

City *State* *Zip Code*

County Utah County

Telephone Number (405) 323-9993

E-Mail Address *(if known)* unknown

☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name

Job or Title *(if known)*

Address

City *State* *Zip Code*

County

Telephone Number

E-Mail Address *(if known)*

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)*, you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

SECTION 1
JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241 Conspiracy against rights

SECTION 2
JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:
US Constitution Amendment 4
US Constitution Amendment 14
18 USC §241. Conspiracy against rights
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 - Deprivation of rights under color of law

SECTION 3
JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:
US Constitution Amendment 8
18 USC §241. Conspiracy against rights
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 - Deprivation of rights under color of law

SECTION 4
DANA EMMONS, AFCC COUNSELLOR, STATE OF UTAH:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241. Conspiracy against rights
JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241 Conspiracy against rights

SECTION 5
DANA EMMONS, AFCC COUNSELOR, STATE OF UTAH:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241. Conspiracy against rights
JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241. Conspiracy against rights

SECTION 6
DANA EMMONS:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 USC §241. Conspiracy against rights
JUDGE MICHAEL S. EDWARDS
42 U.S.C. § 1983 4.6.1
18 USC §241. Conspiracy against rights
18 U.S. Code § 242 Deprivation of rights under color of law
42 U.S.C. § 1983 4.6.1 Supervisory Liability

SECTION 7
DANA EMMONS:
18 USC §241 - Conspiracy against rights

18 U.S. Code § 242 Deprivation of rights under color of law

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

As a Judge and as a Court Appointed Reunification Counselor, acting on behalf of the State of Utah, violated the Constitutional, Federal, and State laws as listed above and outlined in the attached document.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

The State of Utah including Farmington Utah,
The State of Virginia

B. What date and approximate time did the events giving rise to your claim(s) occur?

From June 29, 2018 through current.

C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

See attached

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

See attached

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See Attached

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case–related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: March 29, 2024

Signature of Plaintiff Kirk Russel Marsh

Printed Name of Plaintiff Kirk Russel Marsh

B. For Attorneys

Date of signing: N/A

Signature of Attorney N/A

Printed Name of Attorney N/A

Bar Number N/A

Name of Law Firm N/A

Address N/A

N/A N/A N/A
City *State* *Zip Code*

Telephone Number N/A

E-mail Address N/A

COMPLAINT FOR CIVIL DAMAGES

Comes now, KIRK RUSSEL MARSH, resident of FAIRFAX COUNTY, Virginia, hereby formally files suit against THE STATE OF UTAH, JUDGE MICHAEL S. EDWARDS and DANA EMMONS for violations of Utah civil and criminal statutes, federal HIPAA violations and multiple violations of the United States Constitution. The divorce and child custody matters described in this complaint were egregious in their violations.

BASIS FOR JURISDICTION

1 - This Court has jurisdiction over the federal constitutional claims, medical malpractice claims and Utah civil, criminal and constitutional claims in this matter pursuant to 42 U.S.C. § 1983.

PARTIES TO THIS COMPLAINT

THE PLAINTIFF:

2 - KIRK 'RUSSEL' MARSH is a 46-year old resident of Fairfax, Virginia.

THE DEFENDANTS:

3 - Defendant JUDGE MICHAEL S. EDWARDS is a judge in Utah Davis County's 2nd District Court. JUDGE EDWARDS is the presiding judge in the Marsh V. Marsh divorce and is hereby sued in his individual capacity as judge in Utah 2nd District Court, and in his official capacity.

4 - Defendant DANA EMMONS is a reunification counselor, and was a AFCC certified counselor duly appointed an Officer of the Court in the Marsh V. Marsh custody proceedings. MS. EMMONS is hereby sued in her individual capacity and as an Officer of the Court in her official capacity.

5 - Defendant STATE OF UTAH is a governmental entity organized and existing under laws and by virtue of the laws of the State of Utah. UTAH is subject to suit pursuant to Utah Code § 63-30-4 and is vicariously liable for its employees acts in the course and scope of their employment.

STATEMENT OF CLAIM

6 - Russel Marsh was arrested on July 26, 2017 for non-violent white collar federal crimes committed in the course of his employment.

7- Prior to arrest, Russel and Lauren Marsh were residents of Oakton, Virginia.

8 - On December 28, 2017 Lauren and the couple's three girls moved to Utah; 5 days later Russel checked into Cumberland Federal Prison Camp and was incarcerated from January 2, 2018 - September 29, 2020.

9 - In February 2018, Lauren called Kirk David Marsh, Russel's father. She asked Kirk for $700 each month to support the children. Kirk agreed and began sending her monthly payments.

10 - Lauren filed for divorce on Friday, June 29, 2018.[1]

11 - On a July 1, 2018 phone call, Russel learned of the filing, as Lauren hadn't previously mentioned desire to divorce.

12 - In August 2018, Russel rejected the terms of Lauren's proposed divorce settlement: no alimony and $30/month of child support (following Utah guidelines) IF he would relinquish legal and physical custody of the children, forfeit parent time, and surrender all assets.

13 - In September 2018, Lauren filed a *Motion to Bifurcate,* which was denied by Commissioner Wilson in October 2018. Utah Civil Code[2] states that grounds for a bifurcation include:

> "*granting the divorce and deciding other issues later would be more convenient to the parties, not granting the divorce immediately could result in harm, and deciding other issues later would not harm or "prejudice" the parties.*"

14 - On November 19, 2018, Lauren again filed a *Motion to Bifurcate*, which was denied, citing that the case was too new, it wasn't in the best interest of the children, and the parties had not yet attended mediation. At this point Commissioner Wilson ordered mediation as a means to move the divorce forward.[3]

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[1] Petition Verified Petition for Divorce June 29, 2018

[2] https://www.utcourts.gov/en/legal-help/legal-help/procedures/filing/motions/bifurcate-divorce.html

[3] Order on March 18, 2019 hearing

15 - In January 2019, Lauren and Russel attempted court-ordered mediation to resolve divorce terms. As Lauren was unwilling to allow Russel legal or physical custody of the children, mediation was unsuccessful.

16 - On February 25, 2019, after obtaining a new attorney, Lauren filed a third *Motion to Bifurcate and to Waive Mediation Requirement,* which focused on perceived financial need. To quote this motion, Lauren wrote

> "It is obvious to me that Respondent has no interest in the timely manner of this action. I know this for a fact because he previously told me directly that he wanted to go to mediation to "talk some sense into me" and stay together……It is especially offensive that Respondent has taken action to drive up my attorney fees in this action and to engage in legal battle that do absolutely nothing for the well-being of our family and serve only his individual interests….By his oppositional legal actions, Respondent is keeping me locked in a financial trap. By a Bifurcated Decree of Divorce, I would obtain some hope to move on with my life by perhaps developing a relationship with a significant other who might assist me in providing direct care and direct financial support to the children."
>
> "I appreciate the financial support that both my parents and Respondent's parents are providing but Respondent does not directly pay financial support."[4]

17 - On May 14, 2019 The Honorable Michael S. Edwards granted a Bifurcated Decree of Divorce in the 2nd district court in the State of Utah. Judge Edwards accepted the lone mediation attempt on January 28, 2019 as sufficient and waived further mediation requirements, removing all incentive for the parties to work toward resolution. The Honorable Judge Michael S Edwards stated:

> "The Court also finds that the Petitioner has provided credible evidence that she is being prevented **in moving forward in her life**

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[4] Affidavit of Lauren Marsh in Support of Motion to Bifurcate 2-25-2019

> **with dating and other things related to dating** that she cannot carry forward with because of her moral religious values or beliefs because she is married."[5]
>
> "The Court finds that the decision on the Motion to Bifurcate really **doesn't implicate child-related issues directly.**"
>
> "Again, my finding is that because the parties are where they are due to (Russel's) criminal action, **his opinion on the matter is reduced in importance to the Court based on those findings.**"[6]

18 - Judge Edwards set a bench trial date of August 15-16, 2019.

19 - On May 15, 2019 Lauren filed a *Memorandum In Opposition to Motion for Summer Parent Time,* which opposed visits between the children and Russel. The parent time issue was addressed in a hearing on May 20, 2019.

20 - At this hearing, Commissioner Wilson noted an offer from Russel's parents - as Lauren cited the trip from Utah to Virginia as cost prohibitive, Kirk and Shawnee Marsh offered to fly to Utah, pick up the girls, and bring them to Russel at Kirk's expense.

21 - Commissioner Wilson accepted Kirk's offer to *pay* for the trip; however, allowing the Marshes to bring the girls to Virginia would be akin to awarding grandparent time; therefore Lauren would facilitate the visit by escorting the girls at Kirk's expense.[7]

22 - Lauren repeatedly claimed to be homeless, destitute and penniless. In July 2019, her claim that travel was cost prohibitive was undermined; in her *Updated Financial Declaration* to the Court, her available cash in the bank (referred to, by Lauren, as minimal)[8] was $131,217.83.[9] Additionally, Lauren and children were living rent/mortgage free in a newly built townhome purchased for her by her parents, W.C.W. and C.S.W.[10]

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[5] Transcription of Findings and Ruling of hearing held on 5.14.2019 with Judge Michael Edwards

[6] Transcription of Findings and Ruling of hearing held on 5.14.2019 with Judge Michael Edwards

[7] Transcript Marsh Orders 5-20-2019

[8] *Affidavit of Lauren Marsh in Support of Motion to Bifurcate* 2-25-2019

[9] *Petitioner's Updated Financial Declaration*, 7/17/2019

[10] Trial testimony W.C.W., also *Petitioner's Updated Financial Declaration*, 7/17/201

23 - In early August 2019, Kirk Marsh paid in excess of $4000 for Lauren and the girls to travel to see Russel for one weekend.[11] While on the trip Lauren denied the Marshes contact with the children.

24 - Prior to commencement of the bench trial on August 15, 2019, Judge Edwards met with both attorneys. They discussed two major outstanding trial issues - Russel's right to joint legal custody, and Lauren's insistence that Kirk Marsh be *legally obligated* to pay her the $700/month that he was voluntarily gifting her. Mike Nielsen (Russel's attorney) relayed a message to Judge Edwards that Kirk would voluntarily give Lauren monthly support, but would **not** agree to legal obligation.

25 - Judge Edwards proceeded to inform all parties that barring new evidence or circumstances, he would not deny Russel joint legal custody of the children. Upon hearing this, Lauren decided to proceed with trial, as she wanted a guarantee of payments without any legal or physical custody for Russel.

26 - The two day bench trial occurred August 15-16, 2019.

27 - On Friday afternoon, as the trial finished, Judge Edwards declared that he had sufficient information for a decision. Two hours later, he returned with a ruling.[12]

28 - In his ruling Judge Edwards says "I'm trying to provide a structure for (the best interests of the children). And *instead of looking for the faults or the flaws in it*, which doubtless it will have – there's not perfect human endeavor – I hope that it will provide what's needed to be as good as can be for your children, given what is, indeed, a very difficult circumstance, to say the least."[13]

29 - Judge Edwards ruled that upon release from prison, Russel would have relocation parent time per Utah Code 30-3-37 under the direction of an AFCC certified reunification counselor.

30 - In 2020, upon learning of Russel's upcoming release from prison, Mike Nielsen (attorney for Russel) attempted to coordinate the appointment of a reunification counselor with Lauren's attorney, Ryan Gregerson.

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[11] Text message Kirk Marsh to Lauren Marsh, May 23, 2019
[12] Bench Trial transcript, August 16, 2019
[13] Court's bench trial ruling, transcript, 8/16/2019

31 - On September 23, 2020, upon learning the date of Russel's release from prison to home confinement, Lauren filed *Opposition to Objection to and Memorandum in Opposition to Respondents Request for Expedited Telephone Conference Re: Respondents Release to Home Confinement and Request for Expedited Ruling on UEA Parent Time for Respondent* in an attempt to block Russel from exercising his right to parent time.

32 - On September 29, 2020 Russel was released from Cumberland Federal Prison Camp to Home Confinement, and was restricted to an ankle monitor for the duration of his sentence (until June 26, 2022).

33 - In her motion, Lauren's argument was that as Russel would still be in BOP custody for home confinement, he was ineligible for parent time. She stated

> "Respondent's Request and UEA Request seek orders regarding his parent-time upon what *he has falsely alleged is his release from federal prison*. The controlling orders only contemplate a change in Respondent's parent-time upon the Respondent being 'released from prison.' It is clear that the Respondent is not being released from his prison sentence, but rather being transferred to serve his sentence in a different setting given the COVID-19 pandemic."[14]

34 - The matter of Russel's eligibility for parent time came before Judge Edwards on October 1, 2020.

35 - Judge Edwards ruled in favor of classifying Russel as released from prison; however, the Judge reiterated his previous order for Russel to participate in reunification therapy, and reiterated that Russel needed approval from the counselor prior to parent time.[15]

36 - In the hearing, in regards to choosing a counselor, Mike Nielsen stated to the Court:

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[14] *Opposition to Objection to and Memorandum in Opposition to Respondents Request for Expedited Telephone Conference Re: Respondents Release to Home Confinement and Request for Expedited Ruling on UEA Parent Time for Respondent* September 23, 2020

[15] Transcript for hearing of 10-02-2020

> "I've been asking for months. Mr. Gregerson simply ignores and says, it's not necessary. So what petitioner has succeeded in doing is delaying now, and kicking this down the road so that she does not have to provide parent-time relocation."[16]

37 - The delay in appointing the counselor necessary to approve Russel's time caused Russel and the girls to miss fall parent-time, as the parties failed to appoint a counselor before the dates allocated to Russel through the parent-time statute.

38 - Upon Russel rushing to choose a counselor before the two weeks allocated to him for winter parent-time, Russel agreed to Lauren's recommendation of Dana Emmons.[17]

39 - Russel and the girls had one joint counseling session via video with Dana Emmons on December 10, 2019. Lauren participated in the therapy session behind the camera, without Russel's knowledge nor his consent.

40 - Dana Emmons granted Russel only half of his 2020 winter parent-time, as she felt Russel had lied to her about his (irrelevant) criminal charges.[18] Thus, Russel was only allowed one of the two weeks allotted to him for winter parent-time.

41 - During the 2020 Christmas visit, Russel was made aware of abuse of his children. Dana failed to investigate the abuse.

42 - In January 2021, Russel filed a motion to remove Dana as reunification counselor.

43 - In a April 2021 hearing, Judge Edwards dismissed the privacy violation of December 10, 2019, and dismissed the allegations of child abuse.

44 - For Spring Break, Dana's recommended Russel receive **no** parent time.[19] (See Section 4 below). At the hearing with Judge Edwards on April 1, 2021, Russel was given parent-time but penalized with the requirement it be supervised.[20]

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[16] Transcript for hearing of 10-02-2020

[17] *Memorandum in Opposition to the Respondents Motion to Change AFCC Counselor* February 15, 2021

[18] *Request for Clarification Regarding Reunification Therapist's Recommendations,* March 30, 2021

[19] *Request for Clarification Regarding Reunification Therapist's Recommendations,* March 30, 2021

[20] Court's Orders on Hearing April 1, 2021

45 - As per the Utah relocation parent-time statute, Russel was allotted five summer weeks with his children. However, Dana decided Russel couldn't interfere with Lauren's many vacation plans as 'family things are important'[21] - thus he was allowed the children for only two of the five allotted weeks. As Dana informed Russel of the schedule, Dana said "Be grateful that you're not in prison and get less time."[22]

46 - While depriving Russel of parental rights and time, Dana repeatedly reminded Russel "your children love and adore you"[23] and Lauren reminded Russel that he "hangs the moon" to the girls.[24]

47 - Court-ordered reunification counseling between Dana, Russel and the girls continued until March 2022.

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[21] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021
[22] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021
[23] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021, April 27, 2021
[24] Mandatory Reunification Therapy, Dana, Lauren and Russel, April 27, 2021

SECTION 1

JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:

Utah Criminal Code 76-2-303 Criminal Responsibility for Conduct of Another
42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241 Conspiracy against rights
Utah Code § 78B-12-302 Determination of gross income for child support
Utah Code § 30-3-37 (12) Relocation Parent Time Expenses
Utah Code § 78B-12-202 (3) Child Support Determination Rebuttable Guidelines
UCJA Rule 12 - 2 - Impartial, Competent, and Diligent duties of a Judge
(judicial entrapment via child support)

48 - **Utah Code 76-2-303 (1)** It is a defense that Russel is entrapped into committing the offense. Entrapment occurred when Judge Edwards induced the commission of an offense in order to obtain evidence of the commission for prosecution by methods creating a substantial risk that the offense would be committed by one not otherwise ready to commit it.

49 - **42 U.S.C. § 1983 -** Judge Edwards caused Russel Marsh to be subjected to the deprivation of rights, privileges, or immunities secured by the Constitution and laws, so shall be liable to Russel Marsh in an action at law, suit in equity, or other proper proceeding for redress.

50 - **18 U.S. Code § 242** - Judge Edwards, under color of any law, statute, ordinance, regulation, or custom, willfully subjects Russel Marsh to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

51 - **18 USC § 241.** Judge Edwards and Lauren Marsh conspired to injure, oppress, threaten, or intimidate Russel Marsh, in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, because of his having so exercised the same.

52 - **UCJA Rule 12 chapter 2** - Judge Edwards can be disciplined for legal error only because a ruling was made contrary to clear and established law about which there is no confusion or reasonable question as to its interpretation, and the judge's intentional disregard of the law or the

judge's ruling resulted from animus toward Russel Marsh. Judge Edwards shall not permit family, social, political, financial, or (church or religious beliefs) to influence the judge's judicial conduct or judgment.

53 - Judge Edwards, on behalf of the state of Utah, mandated Russel be required to pay an amount significantly more than his earnings in violation of the child support guidelines (78B-12-302) and support rebuttal guidelines (78B-12-202 (3), knowing that Russel did not have the ability to pay for an extended period, which would obligate Russel to further incarceration as per U.C.A. 76-3-203(3).

54 - As per the child support guidelines established by Utah Civil Code 78B-12-302, Russel's support obligation should have been ordered as $30 (for 3 children based on $(0) adjusted gross income).

55 - Utah Civil Code 30-3-37 - Expenses for travel - Judge Edwards ordered that Lauren shall not be responsible for 1/2 of the child's travel expenses relating to Subsection (6)(c) (summer), overriding the guideline as a punitive award to Lauren against Russel.

56 - Judge Edwards deviated from child support guidelines provided above, putting Russel in a situation of Judicial Entrapment, as per Utah Criminal Code 76-2-303 - Entrapment, by requiring payment of child support in excess of Utah statute and which Russel could not pay, depriving Russel of his constitutional right to liberty. This entrapment was created by Judge Edwards granting Lauren's demand for obligatory child support and expenses in violation of the statutes.

57 - Judge Edwards simultaneously awarded all assets to Lauren, leaving Russel no resources for support payments. Unless a third party paid his obligations, Russel was entrapped into committing Criminal Nonsupport with accompanying criminal charges, as per 18 U.S. Code § 228 Criminal nonsupport.

58 - The violation on a third party not in the suit is claimed separately below.

59 - Judge Edwards was overly influenced by Lauren and her influencial family, creating a conspiracy to violate Utah and United States law and creating a situation of judicial entrapment.

The facts are as follows:

60 - After Lauren Marsh requested support as a single mom with no personal income, dependent on the families to help her, Kirk David Marsh (Russel's father) made voluntary payments to Lauren in the amount of $700 per month from February 2018 to August 2019. In addition to Kirk's payments, Lauren received an additional $700/month from her parents.[25]

61 - In August of 2019, Kirk Marsh voluntarily paid Lauren Marsh $700 for support, and was Court ordered to pay Lauren $4000 for travel.[26]

62 - At the time of trial, Lauren reported over $131,000 in her bank account and was living rent free in a townhouse purchased by her parents.[27]

63 - In the divorce trial, Lauren (Petitioner) demanded the $700 monthly gift from Kirk be ordered as a legal obligation of Russel (Respondent), rather than a gift from Kirk.

64 - In his trial ruling, Judge Edward established lack of precedence for his actions when he said "Next, child support. Now, this is an interesting issue for the Court, *one that I've not seen the like of*."[28]

65 – The Judge ruled:

> *"Effective September 1, 2019, Respondent shall pay child support to Petitioner using a sole physical custody calculation. Petitioner's gross monthly income is $1,803.00. Respondent's income is $60.00 per month. Under the low income calculation, Respondent would only owe $30.00 per month for child support. Given the facts of this case as set forth in the Findings, The Court has deviated from the child support guidelines, and Respondent shall pay Petitioner child support in the amount of $700.00 per month for base child support."*
>
> *The parties shall share the costs of medical and dental insurance, if any, equally. Any out-of-pocket medical, dental, orthodontic, or psychiatric care of their minor children shall share the costs as set forth in Utah Code Ann. § 78B-12-212*

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[25] *Petitioner's Financial Declaration*, November 7, 2018
[26] Transcript Marsh Orders 5-20-2019
[27] *Petitioner's Updated Financial Declaration*, 7/17/2019
[28] Transcript, Court's bench trial ruling, 8/16/2019

> *The child support order shall require that each parent share equally the reasonable work-related child care expenses of the parents.*
>
> *Given the facts of this case, the reason for the respondent's lack of earnings, his own fault, his own criminal conduct, the needs of the parties' minor children for support, the Court finds that it is justified in deviating from the guidelines*[29] *in ordering respondent to pay petitioner child support in the amount of $700 per month for base child support. The Court concludes that this is an appropriate amount after analyzing all the factors in Utah Code Section 78 (b) -12-202, subsection 3. And we can go through that explicitly if you feel like we need to, but this is a deviated order and it's deviated simply because it would be inequitable to the parties' children to order $30 a month child support where their father is in prison because he committed a criminal act.*
>
> *However, given the facts of this case and the Petitioner's move to Utah being made necessary by Respondent's criminal acts, Respondent shall pay the cost for his parent time with the minor children. Respondent's parents are to facilitate Respondent's parent time by providing the transportation, care, housing, and supervision of the minor children for these parent time periods. Accordingly, one or both paternal grandparents shall accompany the transportation.*[30]

66 - The decree section titled CHILD SUPPORT ARREARAGES reads "*There are no arrearages owed given the support payments received from both families by Petitioner.*"[31]

67 - As this was the Court's first ruling on child support, arrearages were an impossibility. However, the Court acknowledged the previously gifted payments of $700/month, calling them "support payments" from both families.

68 - As Judge Edwards awarded Lauren all marital assets,[32] and Russel's income was $60/month, Judge Edwards' deviation from child support guidelines put Russel in a situation of Judicial Entrapment.

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[29] Utah Code 78B-12-202 (3) (c)

[30] *Supplemental Decree of Divorce*, August 16, 2019

[31] *Supplemental Decree of Divorce*, August 16, 2019

[32] *Supplemental Decree of Divorce*, August 16, 2019

69 - The first mandated payment (09/01/2019) put Russel in a position of unavoidable arrears - no assets, insufficient income, and no ability to earn more income. Base child support of $700, plus roughly $300 in medical payments, accruing monthly, puts him in arrears of $12,000 annually.

70 - As per 18 U.S. Code § 228 regarding nonpayment of child support, Russel would automatically be guilty of Criminal Nonsupport - Third Degree Felony, only 10 months after the divorce decree.[33] As of September 1, 2019 Russel had 56 months remaining of his prison sentence.

71 - The penalty for a third-degree felony is a maximum of five years in prison (pursuant to U.C.A. 76-3-203(3), a $5,000.00 fine (pursuant to U.C.A. 76-3-301(1)(b)), or both.

72 - Had Russel been criminally charged while incarcerated, he would likely have been subject to further incarceration on the sentence he was already serving - he would remain incarcerated for the three year portion of his sentence dedicated to supervised release (probation).

73 - Upon release from Cumberland, Russel would face extradition to Utah to serve time for Criminal Nonsupport.

74 - The child support ruling endangered Russel to EIGHT additional years of incarceration for a crime that would be committed by one not otherwise ready to commit it.[34]

75 - From September 1, 2019 - December 31, 2023, Kirk and Shawnee Marsh paid Russel's support obligations.

76 - Kirk and Shawnee Marsh have been constitutionally and financially penalized in the matter. Due to Lauren's behavior, as of December 2023 they are no longer willing to offer financial resources to Lauren.

77 - In an effort to adequately provide for his family in the future, Russel Marsh is a full time Ph.D. student studying Economic Policy. He has neither income nor resources to pay Lauren support.

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[33] https://ors.utah.gov/child-support/public-policy/844p/#:~:text=Except%20as%20noted%20below%2C%20criminal,(1))%2C%20or%20both.

[34] Utah Code 76-2-303

SECTION 2

JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:

US Constitution Amendment 4

US Constitution Amendment 14

18 USC §241. Conspiracy against rights

42 U.S.C. § 1983 Civil action for deprivation of rights

18 U.S. Code § 242 - Deprivation of rights under color of law

UCJA Rule 12 - 2 - Impartial, Competent, and Diligent duties of a Judge

(Lack of Due Process against a party not part of the suit)

78 - Judge Edwards' obligation of a third party to pay Russel's child support and other expenses was outside the jurisdiction of the Court.

79 - Additionally, the ruling was a violation of the third party's rights as a non-party to the suit under the Fourteenth Amendment of the Constitution concerning due process of law and under the Fourth Amendment as an illegal seizure.

80 - By acquiescing to the demands of the Petitioner, Judge Edwards created a conspiracy against rights under color of law.

81 - See facts above concerning child support orders

The facts are as follows:

82 - In May 2018, Kirk's willingness to pay for travel emboldened the Commissioner to *order* him to pay for Lauren's summer travel. However, in no way did this imply willingness to submit to ongoing legal obligation.

83 - During a pretrial conference in August 2019, Kirk David was asked if he would submit to the legal obligation of child support. Kirk David responded that he would continue to make voluntary payments of $700 but would not commit to an obligation.

84 - The Judge ruled it appropriate for Russel to be obligated to a $700/month payment previously gifted by Kirk. As Russel had no ability to pay, the Judge's order relied on Kirk's willingness to gift money to facilitate Russel's new legal liability.

85 - Because Lauren was already being given $700/month, the order suggests Judge Edwards was granting direct punitive actions against Russel and indirect punitive damages against Kirk.

86 - The Judge's ruling (provided above) necessitated not only a payment of $700 but also medical, travel, and other expenses as explained in Section 1. This also included 100% of summer travel expenses given to Russel, in violation of the statute for Russel and Lauren to share expenses as per Utah Civil Code 30-3-37:

> Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (6)(a)and (b) (Fall or holiday travel) and 1/2 of the child's travel expenses relating to Subsection (6)(c) (summer), provided the noncustodial parent is current on all support obligations.

87 - To avoid further conflict and in the best interest of the girls, Kirk David Marsh made monthly payments to Lauren of roughly $1000 per month from September 2019 - December 2023 (~$52,000). He also paid for all travel associated with the girl's visits to Russel (~$60,000).

88 - In December of 2023, Lauren refused to release the children for Russel's parent time, and as a result Kirk Marsh paid an *additional* $1000 to reschedule four round trip tickets from Utah to Virginia.

89 - Kirk and Shawnee Marsh have been constitutionally and financially penalized in the matter. As of December 2023, they are no longer willing to gift money that supports Lauren's entitled and alienating behavior.

SECTION 3

JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:

US Constitution Amendment 8

18 USC §241. Conspiracy against rights

42 U.S.C. § 1983 Civil action for deprivation of rights

18 U.S. Code § 242 - Deprivation of rights under color of law

UCJA Rule 12 - 2 - Impartial, Competent, and Diligent duties of a Judge

(8th Amendment Violation of Cruel and Unusual Punishment to a convicted prisoner via punitive damages awarded to Lauren)

90 - *The Court makes this Order having considered all the evidence presented and has done its best to narrowly tailor the Order so that it preserves Respondent's right to have a good relationship and bond with his children while minimizing any negative impact on Petitioner's parental rights.*[35]

91 - The divorce decree incorrectly redefines Russel's parental rights.

92 – The Court's order was punitive in that it did not follow the statutory guidelines for child support and travel expenses thus balancing the rights of the parties, particularly regarding child support (See claims 1 and 2 above) and visitation rights.

93 - The Judge's repeated statements that Russel's criminal acts are justification for the findings is a further violation of due process rights, as this became a further punishment for a crime already adjudicated in violation of the Eighth Amendment.

The facts are as follows:

94 - Judge Edwards opinion on bifurcation is echoed in his ruling of punitive damages:

> *"Again, my finding is that because the parties are where they are due to (Russel's) criminal action, his opinion on the matter is reduced in importance to the Court based on those findings."*[36]

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[35] Divorce Decree, August 16, 2019

[36] Transcription of *Findings and Ruling* of hearing held on 5.14.2019 with Judge Michael Edwards

95 - In her bifurcation petition, Lauren states

> "Notably, in many senses, *I am the primary victim of Respondent's criminal acts.* Indeed, the respondent engaged in criminal behavior in regards to several entities. But, the respondent was also fundamentally dishonest with me as I have described my previous Affidavit. Moreover, I suffer the daily financial and emotional fallout of Respondent's criminal actions."[37]

96 - In regards to jurisdiction of the Courts, *"Criminal courts cannot award restitution for unliquidated damages involving compensation for pain and suffering, or for lost future earning capacity."*[38]

97 - In the government's criminal charges against Russel, Lauren made no claim to be a victim of Russel's crimes, therefore was not awarded restitution. Conversely, the government identified Lauren as a beneficiary of Russel's criminal activity.[39]

98 - *If* Lauren felt entitled to restitution, family court does not have jurisdiction to award damages from pain, suffering, or lost future earnings resulting from criminal proceedings.

99 - In 2017, Lauren received all marital assets when Russel signed over the deed to the family house. Further, Judge Edwards ruled the assets were completely hers. The judge allowed *Petitioner to be awarded the entire $120,000.00 in marital equity free and clear of any claims of Respondent.* Judge Edwards ruled

> "The Court would normally divide the $120,000 in equity remaining in the property equally between the parties. However, where the Court has found that respondent dissipated at least $60,000 of marital funds in the course of his **illegal activities,** the Court finds that it is equitable to award the entire $120,000 in marital equity to the petitioner."[40]

100 - *Petitioner shall have all of the child tax exemptions and benefits of any kind for so long as the children can be claimed for income tax purposes.* Judge Edwards stated

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[37] *Affidavit of Lauren Marsh in Support of Motion to Bifurcate* 2-25-2019

[38] https://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1257&context=fac_pubs

[39] Position of the United States on Sentencing, 11.19.2017

[40] Divorce Decree, August 16, 2019

> "Russel is not able to provide as much support for his children as he should be able to provide because of his **criminal actions.**"[41]

101 - As per Utah statute 78B-12-217,[42]

> "...in awarding the exemption, the court or administrative agency shall consider: as the primary factor, the relative contribution of each parent to the cost of raising the child."

102 - In effect, Judge Edwards facilitated Lauren to use family court to levy judgments against Russel and his parents, Kirk and Shawnee Marsh, to be awarded restitution for unliquidated damages in violation of their Constitutional rights involving compensation for pain, suffering and loss of future earning capacity, awarding what were effectively punitive damages based on the criminal case.

103 - After release from Cumberland, at Lauren's insistence, Judge Edwards ordered AFCC reunification counseling, paid for entirely by Russel.

104 - As the Court gave the counselor complete control over Russel's parent time schedule,[43] inability to pay would strip Russel of parent time, yet Russel had no ability to pay.

105 - In order for Russel to see his children, Kirk Marsh paid the AFCC counselor, Dana Emmons, approximately $5,000 for reunification therapy services.

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[41] Transcript, Judge's orders, August 16, 2019

[42] https://le.utah.gov/xcode/Title78B/Chapter12/C78B-12-S217_1800010118000101.pdf

[43] *Supplemental Decree of Divorce*, August 16, 2019

SECTION 4

DANA EMMONS, AFCC COUNSELLOR, STATE OF UTAH:

42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241. Conspiracy against rights
Utah Criminal Code § 76-9-404 Criminal defamation
Utah Code § 78B-3-406 Failure to obtain informed consent
Utah Code § 78B-3-403 Medical Malpractice
(Violation of privacy, defamation, conspiracy)

JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:

42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241 Conspiracy against rights
UCJA Rule 12 - 2 - Impartial, Competent, and Diligent duties of a Judge
(conspiracy against rights)

106 - **Utah Criminal Code 76-9-404** Criminal defamation. Dana Emmons is guilty of criminal defamation as she knowingly communicated to Judge Edwards, Russel Marsh, Mike Nielsen, and most importantly Russel's three girls orally and in writing, information which she knew to be false and knew would expose Russel Marsh to public hatred, contempt, or ridicule.

107 - **Utah Code § 78B-3-406** Failure to obtain informed consent - On December 10, 2019, Dana's actions, taken without Russel's consent, were a violation of HIPAA privacy laws, causing Russel and the girls significant harm, pain and ongoing trauma and distress. Consequently, Dana's actions are egregious examples of medical malpractice.

108 - **Utah Code § 78B-3-403** Medical Malpractice - Dana's negligent actions as an Officer of the Court in the capacity of a Clinical Psychologist led to 'unexpected outcomes' in that

Russel's relationship with his children deteriorated under her care, causing both immediate and future damages.

109 - **18 USC §241** Conspiracy against rights - Dana Emmons failed to perform impartial duties as a reunification counselor. Her actions were supported by The Honorable Michael Edwards, as he dismissed HIPAA violations and malpractice claims, and ordered Russel Marsh to continue in the care of a negligent and dishonest provider.

110 - The guidelines by which reunification therapy is conducted are outlined in the AFCC handbook:

> A client/patient's decision to consent to a proposed treatment or a proposed release of confidential information by a mental health professional, after the client/patient has received reasonably full and accurate information from the mental health professional as to the risks, benefits and likely consequences of the decision to consent.
>
> The term is used colloquially by mental health professionals to mean the process by which a client/patient receives the information needed to make an informed decision. The process usually includes discussion and a written agreement between the mental health professional and the client/patient as to the information provided and the client's understanding of it.[44]
>
> A CIT should revisit the discussion of confidentiality with the client as circumstances change, or as issues arise in therapy that may result in the disclosure of treatment information.[45]
>
> Considerations for therapists covered under the Health Insurance Portability and Accountability Act (HIPAA) If the CIT is a HIPAA-covered entity, he/she must be aware of his/her obligations under the Act, and the how those obligations may change if the client or family

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[44] AFCC Guidebook 6, p.3

[45] AFCC Guidebook 7.4 - Ongoing obligation to inform client

> becomes involved with the Court. When requirements under HIPAA appear to be in conflict with other laws or Court orders, the CIT should obtain legal consultation.[46]

The facts are as follows:

111 - On December 10, 2020, Dana Emmons violated Russel's privacy and trust by allowing Lauren to listen to, and be involved in, Russel's therapy session with his girls without his knowledge nor his consent.

112 - Concerning Russel's first video counseling session with Dana and the girls (December 10, 2020), Russel stated to the Court

> "During this first and only time between myself and the girls, the girls would consistently shift to someone off camera as if to get permission for questions or answers. It was later confirmed Lauren was in the room, even though this fact had been concealed. Our conversation was stilted, uncomfortable and almost scripted. One of the girls told me that Lauren was in the room during our joint session, nodding or shaking her head. Another of the girls told me that Dana had directed Lauren to indicate to them when I was not telling the truth."
>
> "Despite Dana telling me that she had never talked to Lauren in a session but only in passing before or after a session, the girls mention that Lauren has been in the room during various sessions, taking notes separately from Dana. This included the session immediately after our daughters return from being with me and my family for Christmas. Again, the girls couldn't tell Dana anything their mother wouldn't approve of."[47]

113 - The Marsh children have struggled to trust Russel since the event, with the children repeatedly stating to Russel "We don't know who to believe" and "We don't know who to trust."

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[46] AFCC Guidebook 7.6, pp.19-20
[47] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021

114 - Following Christmas break both Russel and his attorney spoke to Dana (as per HIPAA instructions to file a complaint with your provider); Dana admitted the violation had occurred and that it was a 'mistake.'

115 - Mike Nielsen asked Dana to recuse herself in the case; however Dana failed to recuse herself, nor did she take action to remedy the violation. On February 1, 2021 Russel filed a *Motion to Change AFCC Counselor-End Reunification-Payment of Fees.* In this motion Russel addressed the HIPAA violation, as referenced above.

116 - In spite of reunification orders being for Russel and the children, Dana continued to violate the privacy and impartiality of therapy by allowing *Lauren* to observe and participate in the girls' therapy sessions, undermining the purpose of reunification therapy.

117 - Dana and Lauren wrote affidavits to the Court on the matter; many statements in the affidavits were misleading, and some statements were completely false.

118 - In Lauren's affidavit, Lauren confirmed that she *was* in the room on December 10, 2020. Lauren said

> "The Petitioner complied with the therapist's request and sat still and silent in the room. The Petitioner attests that she did not influence or restrict any communication at the session."[48]

119 - However, in a later therapy session, Dana confirmed the girl's assertion that Lauren *had* shaken her head in disagreement with Russel's statements.[49] The conversation proceeded as follows:

> Russ: Lauren was in the room, and was apparently shaking her head on some of the things I said. And *that* was asked to me point blank by ILM
>
> Dana: Umm, she shook her head on one question, I was there
>
> Russ: I know you were there

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[48] *Memorandum in Opposition to the Respondents Motion to Change AFCC Counselor* February 15, 2021

[49] Mandatory Reunification Therapy, Dana and Russel, February 2022

Dana: She shook her head on one question. And I think it had to do with her trying to get…

Russ: It was about me

Dana: It was 'did you tell Mom everything in the beginning?' and you said yes but Lauren said no

Russ: No, I didn't say yes, I explained that I told her *some* things but not everything. And I got very directed questions by ILM, and then that opened up more questions, and you can see by sitting in there, whether it's NRM or ILM, they're not hesitant to ask hard hitting questions.

120 - In her affidavit to the Court, Dana Emmons admits to the violation, but writes in a misleading way so as to confuse the truth. She wrote

> 'On the one joint session because of IAM's request their mother was in the session, which I believe Mr. Marsh knew, as he confirmed that with his children sometime later…..I apologized if (Mike's) client didn't know their mother was in the room, but I was sure that he did.'[50]

121 - Having later found out Russel *suspected* that Lauren was in the room, and the girls later verified it, Dana used that information to intentionally mislead or lie to the Court to believe that Russel knew *at the time.*[51]

122- Dana led the Court to believe that due to Russel's suspicion of Lauren's undisclosed attendance, he was accepting and approving of Lauren's attendance.

123 - Further, she then called Russel a liar - "Mr. Marsh and Mr. Nielsen have made many false statements about me and others."[52]

124 - Russel and Dana discussed Dana's letter in a therapy session after the hearing:

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[50] *Memorandum in Opposition to the Respondents Motion to Change AFCC Counselor* February 15, 2021

[51] Mandatory Reunification Therapy, April 20, 2021

[52] *Memorandum in Opposition to the Respondents Motion to Change AFCC Counselor* February 15, 2021

Russ: Frankly, I'm still pretty angry at the letter *you* wrote to the judge. And some of the claims you made. And I'm pretty frustrated with you.

Dana: M-kay.

Russ: You lied on that letter about many things, and I'm sure you had to to protect yourself -

Dana: What did I lie about? Because I DO NOT LIE.

Russ: You said that I knew that Lauren was in the room.

Dana: The kids told me, that you told them that you knew that she was in the room. That's what I said in the letter.

Russ: No, it said that you had informed me that Lauren was in the room. And then you referenced that to Mike.

Dana: That's not what I said in the letter. That is not what I said.

Russ: Are you sure?

Dana: Yes. That is not what I said. I don't… I would not have…

Russ: But you -

Dana: I would have never …

Russ: The way that that letter read, it would have suggested that no, I had told Russel that Lauren was in the room, rather than -

Dana: You are saying that, but that is *not* what the letter said

Russ: So then help me understand, because maybe I'm getting frustrated at you and I shouldn't. Because in the letter, as I read it, it was essentially saying 'no, I told Russel' rather than the conversation -

Dana: You can't say essentially saying, you need to look at *what did it say*

Russ: You didn't tell me that she was in the room. And then you told -

Dana: WHAT did the letter say?

Russ: The letter said that you were under the assumption that I knew that Lauren was in the room. That *AT THE TIME* I knew that she was there.

Dana: And your children, when they came back, *confirmed* your words that you knew that she was there

Russ: That I ASSUMED that she was there, and they confirmed that she was, but you didn't *tell* me that

Dana: Did you say anything in that conversation with your kids that couldn't have been heard by Lauren? Cause I don't think you did

Russ: I didn't, but that's not the point. It was a HUGE -

Dana: No, the point is *you did not say* any -

Russ: That is the point! That's a huge point for me, Dana! It's a huge point for me.[53]

125 - Further, in regards to inviting Lauren to Russel's therapy, Dana repeatedly argued, "*does it even matter.*" Dana failed to see or acknowledge her actions and behavior had a negative effect on the situation: Lauren sat in the corner and used non-verbal communication, such as shaking her head to communicate her disagreement with Russel's statements, thereby undermining the girl's trust with him.[54]

126 - On April 1, 2021, the privacy violation came before Judge Edwards. Lauren argued that Russel had not satisfied the demands of the court concerning reunification therapy, and demanded Russel lose parent time for the upcoming spring break.

127 - Russel's statement to the Court prior to the April 1 hearing included the following concerns:

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[53] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021
[54] Mandatory Reunification Therapy, Dana and Russel, February 2022

> "The girls don't know what to believe is true. Dana has created a situation in which an authority figure has stated that their father lies and doesn't even know that he is lying. Accordingly, they should not believe anything that he says."
>
> "Lauren's constant presence or oversight of counseling sessions, coupled with Dana's clear bias against me, puts our daughters into a dangerous situation."[55]

128 - At the conclusion of the hearing, Judge Edwards ruled:

> "In the end, it's not in the best interest of the children that they have to start over with a brand-new reunification therapist. I also, specifically, find and conclude, that reunification therapy is not done. Yes, the children had one visit at Christmastime with their father, but there's still work to be done. That's very clear from the conflict that's arisen between the respondent and the therapist, Ms. Emmons, and I suppose indirectly that relates to the Petitioner, as well because she was present in one of the conjoint therapy sessions in December, which respondent objected to."[56]

129 - Judge Edwards supported Lauren and Dana's defamation - that Russel objected out of pettiness, rather than the truth - it was a violation of Russel and the girl's privacy and trust, and a huge violation of professional ethics. Therefore, because Russel was being petty, he needed more time with the therapist.

130 - More from Judge Edwards' ruling:

> "I think - the Court's order today is that Mr. Marsh, you are to re-engage with Ms. Emmons, and you are to take advantage of her services. You're

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[55] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021

[56] Transcript, Court's ruling April 1, 2021

> to listen to what she recommends, and you're going to do what it takes to see this process through."
>
> " I want the parties to count the past as experiences and water under the bridge. I want the parties to move forward. I don't want to receive motions on my desk next week about people being held in contempt for things that happened in December and January and February and March of 2020 and 2021. I want you to move forward, working with each other in good faith. But I don't want these children questioned at all about what is going on in the other party's house."
>
> "I don't want anything that's interrogating about wrong things or bad things that are going on at the other party's house."
>
> "Let's complete the reunification therapy, the sooner the better. But that's going to mean working together and - with the children and the reunification therapist to ensure that the reunification therapist can feel, at some point, whenever that is - I don't know if it's before or after summer parent time, if it's next year, if it's the year after, I don't know when it is. I'm not putting a cap on this because I'm turning to the professionalism of this reunification therapist to let the Court and the parties know when she feels that it is done."[57]

131 - Judge Edwards ruled that Russel had not completed terms of reunification, nor could Russel switch counselors, therefore could only have supervised parent time for Spring Break (April 2021). The girls spent spring break in Virginia under the watchful supervision of their grandparents, having been Court ordered not to be alone with Russel.[58]

132 - Judge Edwards declined to act upon the HIPAA violation. Judge Edwards ordered Russel to continue reunification therapy with Dana Emmons, forcing the abused back to the abuser.

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[57] Transcript, Court's ruling April 1, 2021

[58] Hearing orders, Judge Edwards April 1, 2021

133 - On April 20, 2021, Russel questioned Dana *why* Dana allowed Lauren in the room for his therapy session. Dana replied that IAM hadn't wanted Lauren to leave. Russel then asked *why* Dana had not told him, and she said "I didn't even think about it." Dana then interrupted Russel to tell him "Do you not hear me trying to help you? Do you not hear me trying to say 'if you could just do this a little bit differently you'll get along better?"[59]

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[59] Mandatory Reunification Therapy, Dana Emmons and Russel Marsh, April 20, 2021

SECTION 5

DANA EMMONS, AFCC COUNSELOR, STATE OF UTAH:

42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241. Conspiracy against rights
Utah Civil Code § 30-3-52, Allegations of child abuse or child sexual abuse -- Investigation

JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:

42 U.S.C. § 1983 Civil action for deprivation of rights
18 U.S. Code § 242 Deprivation of rights under color of law
18 USC §241. Conspiracy against rights
Utah Civil Code § 30-3-52, Allegations of child abuse or child sexual abuse -- Investigation
UCJA Rule 12 - 2 - Impartial, Competent, and Diligent duties of a Judge
(Violation of state investigation/reporting laws)
(No investigation of reports of child abuse)

134 - **Utah Civil Code § 30-3-52** Allegations of child abuse or child sexual abuse -- Investigation.

> When, in any divorce proceeding or upon a request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services within the Department of Human Services in accordance with Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child. A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 80-2-1005, is received by the court. That investigation shall be conducted by the Division of Child and Family Services within 30 days of the court's notice and request for an investigation. In reviewing

> this report, the court shall comply with Sections 78A-2-703, 78A-2-705, and 78B-15-612.

The facts are as follows:

135 - During the girls' December 2020 visit with Russel, one of the girls expressed distress over an event that occurred in Utah in June 2020. Due to the nature of the event, it will not be discussed in this public filing. All three girls separately confirmed that the event occurred.

136 - On January 17, 2021, Russel was talking with the girls via video chat, and the topic came up again when one daughter said the distressing event was still a concern; recently she had reacted loudly to a perceived threat.

137 - As she was telling Russel, Russel's other daughter told Lauren of the conversation taking place. Lauren came into the room, took and muted the phone, and had a conversation with the girls. When the girls unmuted the phone, the daughter who had talked to Russel said "Mom told me I needed to tell you that what I told you didn't happen." The daughter, crying, said she didn't want to talk to Russel anymore.

138 - Russel reached out to Lauren, and talked to her the next day. Lauren stated that the event *had* occurred previously, but the current issue was a "misunderstanding" and did not need to be discussed.

139 - That day Russel discussed the abuse allegations with Dana. Dana said she would "look into it."

140 - Three days later, the concerned daughter got on the phone with Russel only to say "I just have to tell you again that what I told you on Sunday wasn't true."

141 - Two weeks later, Dana had provided no update, so Mike Nielsen wrote to her:

> "In my judgment, you should no longer be involved in this case. You are not an appropriate, objective provider of reunification services in this case and I ask that you voluntarily step aside."[60]

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[60] Email from Mike Nielsen to Dana Emmons, January 29, 2021

142 - When Dana did not reply, Russel filed the *Motion to Remove AFCC Councilor,* addressing both the abuse and the HIPAA violation.[61]

143 - The matter came to Judge Edwards on the April 1, 2021 hearing. As per the abuse, Lauren testified that she had filed a report with the Lehi Police Department in June of 2020;[62] However, in January, Lauren had told Russel that the matter was trivial.

144 - Upon fact checking, Russel learned from the Lehi Police Department that they had "No Record in our Files."[63]

145 - Dana Emmons failed in her duty to report on the subject, having not investigated.

146 - Judge Edwards' ruling:

> "I don't want to receive motions on my desk next week about people being held in contempt for things that happened in December and January and February and March of 2020 and 2021…. But I don't want these children questioned at all about what is going on in the other party's house."
>
> "I don't want anything that's interrogating about wrong things or bad things that are going on at the other party's house."[64]

147 - Russel's expressed concerns for the safety, both physical and emotional, of his children, were ignored, and the stress of being ordered to leave it alone was traumatic. As already discussed, *Russel* was awarded supervised parent time for his concerns. No further investigation into the abuse was ordered, and was, in fact, prohibited.

148 - On April 20, 2021, Russel addressed the subject with Dana. Dana stated

> "I DO think she should have told you, absolutely. I really do. Was there a big problem? **No**. You have to put things in perspective. I think the lack of

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[61] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021
[62] Hearing, April 1, 2021
[63] GRAMA report, March 2024
[64] Hearing Orders, April 1, 2021

> communication between you and Lauren prior to this new round of it on the emails, I mean, was probably a big contributor you know."
>
> Regarding the subject of Lauren's handling of the abuse, Dana stated, "And it was bad judgment, and I didn't know anything about it AT ALL until you told me about it ....and I was looking into it, but ok we don't need to get into that."[65]

149 - By "we don't need to get into that" Dana is referring to her statement that she *didn't* look into it.

150 - Both Dana Emmons and Judge Edwards were negligent in following Utah Civil Code 30-3-5.2, Allegations of child abuse or child sexual abuse -- Investigation.

151 - When Russel looked into the incident, he found credible evidence of continuing abuse surrounding his children (to preserve the children's privacy, we will not discuss this here). Lauren herself alluded to the issues in the following months.[66] However, given Judge Edwards' rulings, Russel was handcuffed into keeping his children in a potentially dangerous situation.

152 - Dana continually told Russel he was ***not*** allowed to ask Dana, Lauren, or the girls what goes on in Lauren's house.[67] Judge Edwards confirmed this dangerous directive at the hearing.[68]

153 - Russel later learned that the extent of Dana's 'investigation' was asking the abused daughter one question about it, and then Dana claimed the abuse was 'not a big problem.'[69] She repeatedly told Russel he should 'just be grateful to not be in prison….'[70]

154 - A qualified, impartial counselor would have investigated, putting the needs of the children above her own agenda. An impartial judge would have, at minimum, considered the allegations.

155 - Judge Edwards ruled that he never wanted either issue to come across his desk again.

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[65] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021
[66] Email, Lauren to Russel June 23, 2021
[67] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021
[68] Transcript, Judge Edwards, April 1, 2021
[69] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021
[70] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021, fall 2021

156 - Judge Edwards joined the defamation and abuse against Russel by ordering Russel to be supervised at all times while with the children, therefore punishing Russel's efforts to protect his children.[71]

157 - Dana commended Russel after the Spring Break visit with the girls:

> Dana: You were great, on this last visit, on not bringing up any of the hot topics. And they felt, and it was great, and they were good. I didn't say 'hey, did your dad bring up the hot topics' I said 'tell me about your visit, how did it go?' and it was volunteered to me **'he didn't talk about any of those things that we're not talking to him about'** and I said 'great, that's perfect.' Because they know - there are hot topics. And those topics are court, mom and divorce and all that.[72]

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[71] Hearing Orders, April 1, 2021

[72] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021

SECTION 6

DANA EMMONS, STATE OF UTAH:
42 U.S.C. § 1983 Civil action for deprivation of rights
18 USC §241. Conspiracy against rights
Violation of AFCC guidelines
Utah § 76-8-511 Falsification or alteration of government record
UCJA Rule 13 - 4.1 - Truthfulness in Statements to others
18 USC § 242 Deprivation of rights under color of law
(Fiduciary duty as a court appointed counselor, conspiracy)

JUDGE MICHAEL S. EDWARDS, STATE OF UTAH:
42 U.S.C. § 1983 4.6.1
18 USC §241. Conspiracy against rights
18 USC § 242 Deprivation of rights under color of law
42 USC § 1983 4.6.1 Supervisory Liability
(failure to supervise Dana Emmons, conspiracy)

158 - **Utah § 76-8-511** - Falsification or alteration of government record - Dana Emmons knowingly made a false entry of an affidavit received by the government for information and record, presenting it knowing it to be false and with a purpose that it be taken as a genuine part of information or records.

159 - **42 U.S.C. § 1983 4.6.1** - Liability in Connection with the Actions of Another, Supervisory Officials - Russel contends that Judge Edwards' subordinate, Dana Emmons, violated Russel's federal rights, and that Judge Edwards should be liable for Dana's conduct.

160 - **UCJA Rule 13 - 4.1 - Truthfulness in Statements to others** - Although this statute generally applies to attorneys, Dana Emmons, as an Officer of the Court, should be included in the Rule.

> In the course of representing a client a lawyer shall not knowingly:
>
> (a) Make a false statement of material fact or law to a third person; or

> (b) Fail to disclose a material fact, when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

161 - Dana disregarded the following AFCC guidelines as explained by the AFCC handbook: the purpose of counseling, balanced approach, limited approach and conflicts. Additionally, Dana failed to get specific direction, did not follow general guidelines, or disregarded specific guidelines regarding parent-time.

The facts are as follows:

162 - The Judge's orders on Reunification from the divorce decree in 2019 are as follows:

> Once Respondent is released from prison, he is to enjoy the Utah Code Ann. § 30-3-37 parent time with the caveat that he is to do so with the assistance of an AFCC qualified reunification counselor. The counselor is to provide assistance and direction to the parties as to whether or not a break in the parent time schedule is needed, and, if so, what the schedule should be. The parties are to follow that reunification schedule. Respondent is to pay all costs associated with the counselor. If the parties are unable to agree on a reunification counselor, the issue will be resolved under the standard dispute resolution mechanism the parties will have in place. As to choice of AFCC qualified reunification counselor, in order to avoid a situation of a "hired gun," neither party shall have more say about the choice of counselor than the other.[73]

> On October 2, 2020, Judge Edwards said, concerning reunification therapy:

> Hopefully, this isn't the kind of thing where the children need to see this therapist time and time and time again. Hopefully, the therapist is simply verifying the status, giving some direction to the parties, and helping the parent-time resume naturally and safely for the children. That was my intent; that was my goal.[74]

> On April 1, 2021, Judge Edwards added:

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[73] Divorce Decree, August 16, 2019

[74] Transcript for hearing 10-02-2020

> "Let's complete the reunification therapy, the sooner the better. But that's going to mean working together and - with the children and the reunification therapist to ensure that the reunification therapist can feel, at some point, whenever that is - I don't know if it's before or after summer parent time, if it's next year, if it's the year after, I don't know when it is. I'm not putting a cap on this because I'm turning to the professionalism of this reunification therapist to let the Court and the parties know when she feels that it is done."[75]

163 - Dana Emmons very clearly focused on her preconceived ideas, conforming to Lauren's agenda, and hiding her own behavior rather than fostering Russel's relationship with his children.

164 - Dana repeatedly states that the children love Russel, and feel safe and secure with him.[76]

165 - As far as Russel's criminal history, Dana wrote "***I*** needed the full background" and then wrote "the girls and I agreed that they could ask their dad."[77] She used the children to satisfy her own curiosity. As per Russel's statement

> "One of the girls told me that Lauren was in the room during our joint session, nodding or shaking her head. Another of the girls told me that Dana had directed Lauren to indicate to them when I was not telling the truth."[78]

166 - Dana confirmed this when she wrote "The girls and I agreed that they could ask their dad. **But I did not want them to do it on their own.**"[79] Dana's invitation to Lauren to stay in the room and indicate whether or not Russel was telling the truth was premeditated, as she wanted to get to the "truth" of Russel's criminal behavior. She used his children as bait to ask questions, and Lauren to confirm Dana's preconceived beliefs.

167 - Russel wrote to the Court

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[75] Transcript, Court's ruling April 1, 2021

[76] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021, April 27, 2021, February 2022

[77] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021

[78] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021

[79] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021

> "She (Dana) has also brought up several times the fact that her late husband's father was incarcerated for fraud "back in the 70's." Some of the statements she has made to me suggest her bias towards my situation and her advocacy of Lauren's."[80]

168 - Russel also wrote

> **"Dana did not concentrate on my relationship with the girls, because (she told me) she does not worry about the safety of the girls with me and my family or whether the girls will have an enjoyable time with me. She recognizes the strong relationship between us.** She made these same statements to my attorney. However, she seems unable to move past the reasons behind my incarceration. She is dismissive of what I tell her about my history and clearly accepts, supports and advocates Lauren's position."[81]

169 - When Mike Nielsen confronted Dana about the breach of trust in hiding Lauren in Russel's therapy session, Dana wrote to the Court "I explained to Mr. Nielsen that the reasons for them not being together were because of his criminal acts." Dana's filing reads "(Mr. Nielsen told me) that now Mr. Marsh didn't trust me. He also couldn't see why talking about Mr. Marsh's criminal behavior was relevant."[82]

170 - "I talked to (Mike Nielsen) about our misunderstanding and I explained my need to know of his legal situation and the need the girls had to ask questions."[83]

171 - It seemed to Russel that Dana continuously showed far more interest in discrediting him and punishing him for his criminal activity than engaging in counseling. Dana wrote

> "Mr. Marsh and Mr. Nielsen have made many false statements about me and others…I would like to see him engage in the process and be willing to

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[80] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021
[81] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021
[82] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021
[83] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021

> hear another point of view rather than portraying himself as a victim and making statements that are not true….I believe Mr. Marsh's concerns about me are not well founded and based on the fact that I don't see things the way he sees them…..**Given Mr. Marsh's lack of participation in reunification I would not be in favor of a Spring Break visit.** This is not to create alienation."[84]

172 - In the April 1, 2021 hearing Judge Edwards ruled on reunification therapy:

> "I'm not putting a cap on this because I'm turning to the professionalism of this reunification therapist to let the Court and the parties know when she feels that it is done." [85]

173 - Other than the affidavit for the April 1, 2021 hearing, which Dana sent to the two attorneys, Dana never submitted reports, recommendations or notes to the Court.

174 - Judge Edwards failed to supervise Dana Emmons to ensure due process.

175 - Conversely, Judge Edwards facilitated through his orders Dana's use of therapy and Court-given control of parent time to obtain Russel's compliance with Lauren's wishes.

176 - Russel's last interaction with Dana Emmons was a text message on March 31, 2022 regarding summer parent schedule: the text from Dana to Russel states "Please talk to Lauren about this trip."[86] Following the text, Dana ceased communication with the parties.

177 - In an email from Lauren to Russel on April 3, 2022, Lauren stated "It is Dana's specific job as the reunification therapist to discuss and convey parent time information to you."[87] In violation of the parenting plan, Dana was non-communicative, Russel was forced to change plane tickets, shortening his parent-time to accommodate Lauren's desires.

178 - The Court received no documentation as to the status of reunification therapy.

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[84] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021
[85] Transcript, Court's ruling April 1, 2021
[86] Text from Dana to Russel, March 31, 2022
[87] Email from Lauren to Russel, April 3, 2022

179 - On November 7, 2022, Commissioner Wilson ruled “The AFCC counseling required in paragraph 7(D) of the Supplemental Decree has been completed and parent time in accordance with a UCA 30-3-37 is ordered.”[88]

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[88] *Order Regarding AFCC Counseling and Relocation Parent-Time* November 7, 2022

SECTION 7

DANA EMMONS, STATE OF UTAH:

Utah § 76-8-511 - Falsification or alteration of government record

18 USC §241 - Conspiracy against rights

18 U.S. Code § 242 Deprivation of rights under color of law

(nondisclosure of conflict of interest)

180 - AFCC Definitions Conflict of Interest: A situation in which personal, professional, legal or other interests or relationships have the potential to compromise or bias the mental health professional's judgment, effectiveness or objectivity. A conflict of interest may also occur in some jurisdictions based on the establishment of an appearance of conflict standard rather than an actual conflict.[89].

181 - The CIT should attempt to avoid conflicts of interest and should address them as soon as they arise, or the potential for conflict becomes known, by:

(1) Identifying a real or apparent conflict of interest as soon as it becomes known to the CIT

2) Refusing to assume a therapeutic role if personal, professional, legal, financial or other interests or relationships could reasonably be expected to impair objectivity, competence or effectiveness in the provision of services

(3) Communicating with the client or potential client or counsel, and, if necessary, with the Court, about the existence of the conflict.

(4) Recognizing that the appearance of a conflict of interest, as well as an actual conflict of interest, can diminish public trust and confidence both in the therapeutic service and in the Court.[90] The CIT should strive to be aware of societal and personal biases and continuously monitor his/her actions for evidence of potential bias. Awareness of research and focus on the treatment data

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[89] AFCC guidelines p.3

[90] AFCC paragraph 4.2 p. 12, AFCC paragraph 8.4.c

> inform the CIT and help limit the potential for bias. The CIT should consider withdrawing from a case when he/she is unable to manage a known bias and/or is unable to maintain objectivity.

The facts are as follows:

182 - As Shawnee Marsh was interviewing reunification therapists for Russel, Dana told Shawnee that Dana's only concern was for the children.

183 - Ryan Gregerson, Lauren's attorney in 2021-2022, had a previous case with Dana Emmons.

184 - Dana told Russel about her prior case with Ryan in an early therapy session, with venom and anger about how Ryan was a "liar."[91]

185 - The situation, as explained by Dana, stemmed from Ryan's allegation that Dana was unfairly biased against a father.

186 - In the previous case, Ryan Gregerson, attorney for the father, had Dana thrown off the case for prejudice.

187 - It is immaterial when Ryan, Dana and Lauren *knew* there was a conflict of interest, and they were legally obligated to inform the Court as soon as they were aware. If it wasn't collusion upon the appointment of Dana, it became such when they knew and did not recuse themselves. However, they denied the conflict of interest,[92] and minimized it to the Court.

188 - Additionally, Ryan, Dana and Lauren all worked together in an effort to persuade the Court to deprive Russel of rights (as evidenced by the HIPAA violations, uninvestigated abuse allegations, and deprivation of Russel's parent time).

189 - As Dana told Russel, she had previously assumed she'd never have to talk to Ryan again, and was unhappy that he was Lauren's attorney.[93]

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[91] Affirmed again, Mandatory Reunification Therapy, April 20, 2021

[92] MEMORANDUM IN OPPOSITION TO RESPONDENT'S MOTION (1) TO CHANGE AFCC COUNSELOR or TO CONSIDER THE REQUIREMENT OF REUNIFICATION COUNSELING TO BE FULFILLED; REIMBURSE RESPONDENT FOR ALL REUNIFICATION COUNSELING FEES PAID TO DANA EMMONS, February 15, 2021

[93] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021

190 - On the April 1 hearing, Ryan Gregorson did not participate, but instead had a colleague represent Lauren.

191 - When Lauren responded Russel's statements to the Court concerning Dana's history with Ryan Gregerson, Lauren stated *Russel* "falsely asserts claims that are wholly inaccurate."[94]

192 - When Russel raised concerns about the children (both in reunification counseling and Court), Lauren accused him (with Dana's blessing and support) of being controlling and abusive.[95]

193 - Further, Dana and Lauren used the children to try to come to their own truths about Russel's criminal history.[96]

194 - Additionally, Dana and Lauren discussed Lauren's desires, and Dana used therapy and Court-given control of parent time to obtain Russel's compliance with Lauren's wishes.

195 - Dana, Lauren and Ryan Gregerson's colleague worked together to convince the Court that Russel's concerns were dishonest, petty, dramatic and inappropriate instead of focusing on the girls' reunification with their father.

196 - Dana facilitated Lauren's desires creating a conflict of interest. When Lauren wanted specific dates for multiple family summer vacations, Dana ensured that Russel wasn't allowed parent time in violation of Utah statute. When Lauren wanted Russel unaware of events in her home, Dana made sure that the girls *knew* the events were "hot topics" not to be addressed with Russel.[97] When Lauren didn't want Russel involved in the girls' lives, Dana told him he was controlling and micromanaging (examples include Russel asking for information to order school pictures, about school assignments, or about school absences - all are identified in the parenting plan as joint decisions).[98]

197 - In the fall of 2021, Russel asked Dana 'What is my role as a father?'

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[94] *Memorandum in Opposition to the Respondents Motion to Change AFCC Counselor* February 15, 2021

[95] *Memorandum in Opposition to the Respondents Motion to Change AFCC Counselor* February 15, 2021, Mandatory Reunification Therapy, Dana, Russel and Lauren, April 27, 2021

[96] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021

[97] Mandatory Reunification Therapy, Dana and Russel, April 20, 2021

[98] Mandatory Reunification Therapy, Dana, Lauren, Russel, April 27, 2021

Dana: Right now, you have two phone calls a week with your children and your ex-wife informs you of their activities and if they get sick, or whatever it is. THAT is your role.

Russ: So my role is to have two phone calls, and that's it?

Dana: If it weren't for your home situation, you'd be in prison right now, not having arguments about these phone calls.[99]

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[99] Mandatory Reunification Therapy, Dana and Russel, Fall 2021

INJURIES TO RUSSEL AND HIS CHILDREN FROM THE ACTIONS OF DANA EMMONS

196 - Russel's motion to the Court concerning Dana stated:

> "The girls don't know what to believe is true. Dana has created a situation in which an authority figure has stated that their father lies and doesn't even know that he is lying. Accordingly, they should not believe anything that he says."
>
> "Lauren's constant presence or oversight of counseling sessions, coupled with Dana's clear bias against me, puts our daughters into a dangerous situation."[100]

198 - Dana instilled in the girls "Hot Topics" that should never be discussed with Russel, including anything that goes on in Lauren's home. The girls live in fear of telling Russel anything at all, other than information about extracurricular activities that occur away from Lauren's home.[101]

199 - Lauren stated that her home was not safe with Russel's presence, even when he's on the phone. Dana defended Lauren's position that the kids can only talk Russel on the phone from the basement. The girls have gone through stress as they are relegated to the basement, isolated from the family, toys, and the rest of the house in order to talk to their father.[102]

200 - As a result of Dana's support of Lauren, (at Lauren's insistence) all custody exchanges are at a "safe location" such as the elementary school. The girls mention Lauren's belief that "dad is not safe."

201 - No investigation of the abuse allegations gives Russel extreme emotional distress, as he does not know the frequency or severity of the abuse; additionally, Russel experiences extreme physical stress at having his children living in a potentially dangerous situation.

202 - In the last three years, Russel has suffered significant pain in his neck and back, resulting in multiple specialists, therapies and interventions.

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[100] *Declaration of Respondent to Remove AFCC Counselor* February 1, 2021

[101] *Request for Clarification Regarding Reunification Therapists Recommendations, Exhibit A* March 30, 3021

[102] Mandatory Reunification Therapy, Dana, Lauren and Russel April 27, 2021

203 - Additionally in the last three years, Russel's immune system has deteriorated, and he continually fights infection.

204 - Russel repeatedly tells his children that there's nothing they cannot tell their mother. He tells them they are free to contact Lauren any time they wish, in any location they wish. He tells them anything they tell him is safe. Yet the girls are terrified to tell him anything at all.

205 - As Russel has been free to come to Utah, Lauren only allows him time with the children during his appointed holidays and one weekend a month. She allows no other contact, even when the girls know he is in town.

206 - The girls feel conflicted about Russel's presence in Utah - due to Russel's presence Lauren exhibits elevated stress and anxiety in her home, in spite of not allowing Russel contact with the children.

207 - When Russel is in Utah and asks for the girls scheduled events, Lauren does not comply.

208 - While in Utah, Russel has missed the children speaking or singing in church, daddy-daughter dances, concerts, and various other events because Lauren refuses to inform him.

209 - At this time, we will not include damages specific to the minor children in this public filing.

210 - Dana made it very clear to both Lauren and Russel that Russel's only role as a father, and his only rights, were to two phone calls a week. Lauren persists with this belief and accompanying behaviors.

211 - Dana continually diminished Russel's role as a father, as evidenced in this conversation:[103]

> Dana: If you set up phone calls three days a week, you are impacting their ability to do things that may spontaneously come up. And so the two days a week has consistently worked. If you add a third day, if you were on their side of it, then you'd be thinking 'how many days a week do I have to

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[103] Mandatory Reunification Therapy, Dana and Russel Fall 2021

> interrupt everything so they can have a phone call?' And not be able to just live normal lives, and do what we do each day.
>
> Russ: But when you say that, here's what I'm hearing: we live our normal life, you are part of our life on these holidays, or during the summer, and whatever time we can accommodate a phone call during the week. That is your involvement. AND pay money.
>
> Dana: Well, that's true.

212 - As Dana repeatedly told Russel "the only thing you have legitimate concern about is your phone call."[104] Lauren continues to live by this to diminish his role as a father.

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[104] Mandatory Reunification Therapy, Dana and Russel Fall 2021

INJURIES TO RUSSEL AND HIS CHILDREN FROM THE ACTIONS OF JUDGE EDWARDS

213 - In the bench trial, Lauren argued Russel should be punished in family court for his criminal actions; her view was validated by Judge Edwards' orders.

214 - When Russel was released from prison to home confinement, Lauren argued that he shouldn't have parent time because he was still in BOP custody. Judge Edwards didn't agree, but still denied Russel parent-time by allowing Lauren to argue that a reunification counselor had not yet been established, despite that a counselor was not established because Lauren had refused to discuss an appointment. Judge Edwards' acceptance of Lauren's manipulations validated Lauren in escalating brazen behavior toward Russel.

215 - This event, along with the orders set forth in the divorce decree, set a precedent in which Lauren continually looks for avenues to achieve her desires against Russel, and has caused the girls and Russel significant physical and emotional trauma and distress.

216 - Commissioner Wilson ended reunification therapy because Dana disengaged with the family, not because of Dana's filings, reports or recommendations, which Dana never submitted to the Court. By not monitoring Dana's actions, Judge Edwards allowed her abuse to go unchecked, leading Russel and the children to significant harm.

217 - Judge Edwards' rulings put financial strain on third parties, particularly Kirk and Shawnee Marsh. However, others were also impacted - for example, JC Richards, uncle of Russel, donated frequent flier miles and hotel points to offset some of the costs levied on Kirk and Shawnee.

218 - Judge Edwards' order of supervised time with Russel led Lauren to feel validated in her paranoid and/or maliciously manipulative behavior. She continually reinforces the false idea that Russel is dangerous, such as insisting upon a "safe exchange place" for custody exchanges, and is clear to the children that Dad is not welcome at her home, that he is not a "safe" person, nor are his relatives.

219 - Lauren has escalated the narrative that Russel is 'not safe ' to the extreme of only allowing the children to talk to him electronically from one room of the basement.

220 - Additionally, Lauren would not allow the children wifi communication with Russel until she had a separate, designated router for their communication. She forbids any electronics purchased by Russel for the children, telling the children that electronics provided by Dad are "not safe."

221 - Lauren does not expressly forbid communication between the girls and Russel, but her actions make it very clear that they are only to communicate in the times established by the Cumberland phone schedule - Sunday and Wednesday evening, via a video chat on a computer the children check out from Lauren.

222 - At times other than Sunday and Wednesday evening, Lauren allows the children to communicate with Russel through one Gabb phone, however the Gabb phone must stay in the designated room in the basement, making it nearly impossible for Russel to contact the children.

223 - Lauren uses rulings, in which Judge Edwards has given her what she desires, as validation and justification for her behavior.

224 - Judge Edwards' ruling to give a reunification counselor absolute power put emotional strain on Russel, as Dana used the absolute power to abuse, to alienate, and potentially keep the children in danger.

225 - The Judge's ruling set a precedent 'Russel does not matter,' and that mindset has seeped into his children through Lauren's brazen behavior.

226 - Ordering supervised parent time undermined Russel's relationship with his children.

227 - Allowing Dana to continue in office undermined the trust the children had in Russel, as Dana was very clear to the children that Dad cannot be trusted.

228 - Judge Edwards' decision not to investigate child abuse puts the children at continued risk.

229 - Judge Edwards' rulings puts Russel in a constant state of stress, for continual fear of charges of criminal nonpayment for child support.

230 - Additionally, the orders have given Lauren a perceived justification to harass Russel about money.

231 - Precedence has given Russel extreme fear and distrust of the Court, which has previously inhibited him from filing for custody changes, or to amend child support orders.

232 - The prejudice Judge Edwards has shown against Russel has led Lauren to feel justified in cutting away at Russels parent time - each trip Lauren finds a way to cut down his time with the children.

233 - Even upon taking parent time disputes to mediation in 2023, Russel was forced to give Lauren days of summer; because he is ordered to pay for half of mediation, and does not have income, Russel could not continue to mediate knowing the cost to Kirk and Shawnee.

234 - Russel has suffered immense emotional stress of knowing that Kirk and Shawnee are financially hurt and impacted by the ruling.

235 - Russel has ongoing neck and shoulder pain, which began after release from incarceration as Russel saw the hopelessness of advocating for his children.

235 - In the past three years, Russel has been continually sick, when he previously was not.

236 - Russel has felt helplessness with worry; experiences in Judge Edwards' Courtroom have shown any effort to effect change will make things worse for himself and his children.

237 - At this time, we will not include damages to the minor children in this public filing.

238 - Lauren called Russel a "sperm donor," and the feeling was reinforced by the Court.

RELIEF

239 - WHEREFORE, Plaintiff KIRK RUSSEL MARSH demands judgment against Defendants EDWARDS, EMMONS and THE STATE OF UTAH, including a vacated judgment of the Marsh V. Marsh divorce decree dated August 16, 2019, as well as compensation to KIRK RUSSEL MARSH in the full and fair amount of One Hundred and Seventeen Million Dollars ($117,000,000) in compensatory damages including interest and costs, plus punitive damages as the Court may award.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRIGINIA
_______________ DIVISION

FILED

2024 MAR 29 P 4:12

Kirk Russel Marsh
Plaintiff(s),

v.

Civil Action Number: 1:24 CV 516

State of Utah et al
Defendant(s).

LOCAL RULE 83.1(M) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared, or assisted in the preparation of Complaint.
(Title of Document)

Kirk Russel Marsh
Name of *Pro Se* Party (Print or Type)

Signature of *Pro Se* Party

Executed on: 3/29/24 (Date)

OR

The following attorney(s) prepared or assisted me in preparation of ______________________.
(Title of Document)

____
(Name of Attorney)

____
(Address of Attorney)

____
(Telephone Number of Attorney)
Prepared, or assisted in the preparation of, this document

____
(Name of *Pro Se* Party (Print or Type)

____
Signature of *Pro Se* Party

Executed on: ______________________ (Date)